

EXHIBIT 71

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, et al.

Plaintiffs

vs.

BRAD RAFFENSPERGER, et al.

Defendants

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) Case No.

) 1:17-CV-2989-AT

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VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
JUAN GILBERT, Ph.D.
Friday, October 29, 2021
Volume I

Reported by:

CARLA SOARES

CSR No. 5908

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Pages 1 - 289

1 said, "incomplete report."

2 Q You said you read what was given to you.
3 I just wanted to confirm that, to your
4 understanding, what was given to you was
5 Dr. Halderman's complete July 1 report; is that
6 right?

7 A Yes.

8 Q Did I understand correctly, you reviewed
9 that report carefully before responding to it,
10 right?

11 A Yes.

12 Q But nowhere in your July 16 declaration do
13 you indicate that you've conducted any examination
14 of any election equipment used in Georgia; is that
15 right?

16 A Correct. I have not examined any
17 equipment.

18 Q You did not think that was relevant to
19 respond to Dr. Halderman's analysis, examining that
20 equipment?

21 A In my response, no.

22 Q Why not?

23 A I only responded to things that I could
24 respond to without having examined the equipment
25 using the expertise that I have in the area.

1 MR. CROSS: It should be in the "Marked
2 Exhibits" folder. I'm not sure exactly how to
3 change the exhibit name. Here we go.

4 (Exhibit 2 was marked for identification
5 and is attached hereto.)

6 BY MR. CROSS:

7 Q Do you see Exhibit 2?

8 A Let me refresh. I don't see it.

9 MR. MILLER: David, just for your
10 awareness, they're not labeled as Exhibit 1 -- the
11 first one is, but there's no Exhibit 2.

12 MR. CROSS: Say again?

13 MR. MILLER: I'm just saying, for your
14 awareness, the files are not labeled Exhibit 2, like
15 the file name.

16 MR. CROSS: I just renamed it. It should
17 show up now as Exhibit 2.

18 MR. MILLER: Okay.

19 THE WITNESS: Okay. I found it.

20 BY MR. CROSS:

21 Q Okay. So if you can open that, let me
22 know when you have it, Dr. Gilbert.

23 A Got it.

24 Q Do you see that this is -- it says
25 "Georgia Voter Verification Study, January 22nd,

1 2021"?

2 A I see that.

3 Q Do you understand that this is a study
4 that was actually commissioned by the Georgia
5 Secretary of State looking at actual elections in
6 certain counties in 2020?

7 A I do not understand that as I have not
8 read this, so I don't. All I have is the title that
9 I can see, and all I can gather is what I can gather
10 from the title.

11 Q In fact, you don't reference this study in
12 your July 16 report, correct?

13 A I don't believe so. I'm looking at this
14 trying to see if I've seen this.

15 Okay. Yeah, I don't believe I reference
16 this study. Georgia, University of Georgia. No.

17 The study that I recall was, I believe, a
18 study in Tennessee where people were observing
19 whether or not individuals were verifying their
20 ballots off of a BMD, and they were recording the
21 amount of time spent.

22 But I don't recall this particular study.

23 Q Were you aware that the state had
24 commissioned this study and that at least a draft of
25 the report was available six months before you

1 issued your declaration on behalf of the state in
2 this case?

3 A I do not. I don't -- I'm looking at this.
4 I don't recall this study. I don't recall getting
5 this study.

6 Q Do you recall that Dr. Stark,
7 Dr. Halderman and Dr. Appel all discussed this study
8 in their declarations in response to your July 16
9 declaration?

10 A I don't recall that.

11 Q So even though all three of them
12 emphasized this study in their response to your
13 declaration, you never read it before this moment?

14 A I don't believe I've read this study. It
15 does not look familiar to me. I'm trying to go
16 through it and see. I don't -- I don't recall this
17 study.

18 Q Have you read the reply declarations from
19 those three experts in response to your July
20 declaration?

21 A I may have. I don't know. If we could
22 look at one, I could tell you if I've seen it
23 before.

24 Q So you didn't review those, for example,
25 in preparation for your deposition today?

1 But I did not read it, and so that's -- that's where
2 I stand on it.

3 Q Well, if it's not because you don't want
4 to read it, why have you not read it, especially
5 given that three different experts pointed it out in
6 their response to you?

7 A I have to go back and see where they
8 pointed it out, and I could answer why I didn't read
9 it after reading what they -- what their claims
10 were.

11 Q If reminding voters to verify their
12 ballots before they're tabulated is sufficient, as
13 you use that term, to address the concerns about the
14 reliability of BMDs, then why have you bothered to
15 create this new BMD, which you said is intended to
16 resolve that concern?

17 A Because it's an improvement. By that
18 analogy, you know, we improve technology in a lot of
19 areas that either work or are sufficient or whatever
20 the case would be, but it's an improvement.

21 Q Why do you need to make an improvement if
22 the measure you've identified is already sufficient?

23 A Because that's what I do. I make things
24 work. I make things better. I improve upon them.
25 That's the kind of work we do.

1 Q You improve things that are already
2 sufficient in the way they currently operate?

3 A Yes. We can do that, too. Yes.

4 Q Dr. Gilbert, you recognize that BMDs are
5 often nontransparent, right?

6 A I don't understand what that means.

7 Q You don't understand what that means?

8 A No, I do not. What do you mean by
9 "nontransparent"?

10 Q Do you agree that BMDs are often hackable?

11 A No, I do not.

12 Q Do you agree that BMDs are often overly
13 complex?

14 A No, I do not.

15 (Exhibit 3 was marked for identification
16 and is attached hereto.)

17 BY MR. CROSS:

18 Q All right, Dr. Gilbert. Grab Exhibit 3 if
19 you would. It should pop up here in just a minute
20 for you.

21 Let me know when you have it.

22 A You said 3? Okay. I found it.

23 Q Do you have it, Dr. Gilbert?

24 A Yes, I do.

25 Q Exhibit 3 is a patent dated June 15 of

1 this year for which you are the inventor; right,
2 sir?

3 A Yes, this appears to be the patent.

4 Q Have you seen this patent before?

5 A This appears to be what we submitted, yes.

6 Q If you turn to the page -- it looks like
7 it's -- if you go past the figures, so after
8 Figure 6, you'll get to where it starts to describe
9 the patent, and it has "Transparent Interactive
10 Printing Interface."

11 Do you see that?

12 A Yes.

13 Q And this concerns the new BMD prototype
14 that we've been discussing today that you developed,
15 right?

16 A Yes.

17 Q Do you see under "Background"?

18 A Yes.

19 Q Do you see what's written here in this
20 patent that you helped prepare, and for which you're
21 identified as the inventor, it reads,
22 "Ballot-marking devices (BMDs) such as electronic
23 ballot markers (EBMs) electronically-assisted ballot
24 markers, in voting machines are often
25 nontransparent, hackable, and overly complex."

1 That's written here; correct, sir?

2 A Yes, it is.

3 Q It also goes on, "Such conventional
4 devices often result in a trade-off between
5 consistency and transparency," right?

6 A Yes.

7 Q And at the end it reads, "It is typically
8 difficult or impossible to fully examine and trace
9 the process and result of entering selections for a
10 ballot using conventional BMDs and EMDs."

11 Do you see that?

12 A Yes, I do.

13 Q In preparing the patent for which you're
14 identified as an inventor, were you careful to be
15 accurate and truthful in the information that you
16 included there?

17 A I was careful to be truthful in the
18 information and as accurate as possible using
19 language that I've seen in other places about BMDs.

20 These are allegations against BMDs. And I
21 would say I don't necessarily agree with all the
22 allegations, but these are common allegations
23 against BMDs. So I'm stating what is the common
24 allegation against BMDs. And that's why it's in
25 background, to say these are the common allegations

1 against BMDs.

2 Q Dr. Gilbert, nowhere here does it say that
3 these are allegations that you do not believe to be
4 true; right, sir?

5 A Right. In a patent submission, I don't
6 think I would say that I don't agree with these or I
7 don't believe these things. I wouldn't say that in
8 a patent application.

9 What I'm doing is stating what is commonly
10 said or communicated in the -- in a community around
11 BMD allegations.

12 These allegations that I am setting forth
13 are -- even right as we're here now -- are the bases
14 for these allegations. So these are, I would argue,
15 common -- common allegations that are said.

16 Q Dr. Gilbert, do you understand you're
17 under oath today?

18 A Yes, I am under oath, and I would say --

19 Q Do you understand --

20 A -- they're common allegations.

21 Q Do you understand that not being truthful
22 under oath today is a felony?

23 A Yes, sir.

24 Q Okay.

25 MR. MILLER: Object. This is --

1 Q The testing that you did with the ES&S BMD
2 years ago, was that cybersecurity testing?

3 A No, it was accessibility testing.

4 Q You've never done cybersecurity testing on
5 BMD equipment or software; is that right?

6 A I don't -- what do you mean by "cyber"?

7 So I just -- as I explained, I created a
8 transparent voting machine which we did election
9 security testing to get at a vulnerability
10 Dr. Halderman had identified as voters not
11 verifying. So that's an example where I have done a
12 test of election security, not cybersecurity.
13 Election security.

14 Q Thank you. That's a fair distinction.
15 Let me ask a better question.

16 As I understand it, you have not conducted
17 any test to determine the extent to which any BMD
18 software or hardware can be hacked; is that fair?

19 A Can be hacked? I have not hacked any,
20 so -- that's not what I do. I don't know if that
21 answers your question or not. But I don't hack
22 these systems. I said that time and time again.

23 MR. MILLER: David, I don't know where you
24 are on your timeline. Do you want to take a short
25 break and come back, if that's all right with you?

1 innovating, but I'm not a cybersecurity person.

2 Q But you also emphasize that risk-limiting
3 audits are also needed to address reliability issues
4 with BMDs, right?

5 A I think, again, doing a NASEM report,
6 National Academies report, we've recommended
7 risk-limiting audits, and I'm supportive of that
8 recommendation.

9 Q But RLAs do not have any ability to
10 determine whether an individual vote has been
11 counted correctly, right?

12 A Yes. My understanding -- again, I'm not
13 an audit expert -- but my understanding is if you
14 had hand-marked paper ballots and you send them
15 through a scanner, and the scanner gave you a wrong
16 tabulation, that the RLA would catch that improper
17 tabulation. So then it would essentially get the
18 right outcome.

19 Q Are you talking about a situation where
20 the QR code does not match the human-readable text?

21 A Any ballot -- what I said was if you have
22 a hand-marked paper ballot and you send them through
23 a scanner, but the scanner has been compromised and
24 gives you the wrong out -- number, gives you the
25 wrong determination, the RLA should catch that and

1 give you the right tally.

2 Q Right. The right tally, but it's not
3 going to tell you whether any individual ballot was
4 altered, right?

5 A Would it tell you if an individual ballot
6 was altered? If I sent a ballot through the
7 scanner -- I guess it would depend. Again, I'm not
8 an audit expert. It just depends on how far you
9 investigate to determine if the ballot was correct.

10 So in other words, if a hand-marked paper
11 ballot -- if a person made an oval but the scanner
12 recorded that oval improperly, but if you looked at
13 the record of the scanner and the ballot, then you
14 would be able to get the correct record vote. So
15 that way -- that's one way you would get a
16 correction.

17 Q Dr. Gilbert, do you understand that in
18 Georgia, the QR code is the official ballot of
19 record for tabulation?

20 MR. MILLER: Object to form.

21 THE WITNESS: I believe in prior
22 declarations, I've referenced documents that showed
23 that the human-readable text is what was used in the
24 audit and would be the determining part of the
25 tally. That is my understanding.

1 BY MR. CROSS:

2 Q Do you understand when votes are tabulated
3 in the ordinary course of an election in Georgia,
4 they're tabulated using the QR code for a BMD
5 ballot? Do you understand that?

6 A My understanding is that they are put
7 through the tally machine and then they are tallied
8 on the QR code and followed by the -- again, the
9 RLA. But yes, it does read the QR code.

10 Q When you say, "followed by the RLA," why
11 do you think there's an RLA of every contest in
12 Georgia?

13 A I didn't say, "every contest." Again, I
14 just said there's an RLA. And I -- never mind.

15 Q So when you said that the way votes are
16 tallied in Georgia is they go through -- the QR is
17 tabulated and then it's followed by an audit, that's
18 not accurate except for a single election statewide
19 every two years, right?

20 MR. MILLER: Objection. Calls for a legal
21 conclusion.

22 THE WITNESS: I'd have to go back and
23 confirm how it's actually done in Georgia by any
24 statute.

25 ///

1 BY MR. CROSS:

2 Q As you sit here today, do you have any
3 reason to believe that Georgia is auditing anything
4 other than a single election statewide every two
5 years?

6 A I don't -- I don't know.

7 Q So for any election where Georgia is not
8 conducting an RLA, do you understand that the QR
9 code is the only thing that gets tabulated?

10 A In any election that they don't do an RLA,
11 then the QR code would be the tabulation that comes
12 from a computer that is a scanner. I'm going to
13 refer to it as a scanner.

14 Q And you understand for any election where
15 there's no RLA but there's a recount, the recount
16 relies on the QR code. They just run the ballots
17 back through the scanners.

18 Do you understand that, sir?

19 A No, I do not.

20 My understanding, I believe -- again, I
21 have to go back to those previous declarations where
22 I -- my understanding is that they would actually
23 recount the human-readable text.

24 Q Even in a recount as opposed to a
25 risk-limiting audit?

1 A I thought the recount did that.

2 Q Is that the understanding you have for
3 your opinions?

4 A Which opinion?

5 Q The opinions you've offered in this case.

6 A It depends on the opinion.

7 Q Is that the understanding you have for any
8 of these opinions you've offered in this case?

9 A I guess I would have to know what opinion
10 you're asking me about.

11 In other words, I'm not connecting this to
12 my opinions in any kind of way. So the things
13 you're asking me, I'm not following how -- how is
14 this related to my opinions is what I'm asking.

15 Q You understand that one of the ways that a
16 ballot can be hacked with a BMD is to change both
17 the QR code and the human-readable text; that's a
18 concern that's been raised, right?

19 A I understand that's a possibility. If you
20 can get in and manipulate things, you could
21 manipulate the QR code and/or the human-readable
22 text.

23 Q And the Rice study and the Michigan study
24 show that very few, if any, voters would be expected
25 to find that change, right?

1 A Find what change?

2 Q That their ballot, even as to the
3 human-readable text, does not accurately reflect all
4 of their selections.

5 A Those studies suggest that a few number
6 would identify a human-readable change on that
7 ballot.

8 Q In the scenario where that happened, where
9 both the QR code and the human-readable text has
10 been changed with respect to one or more selections
11 voters made, an RLA would not detect that; right,
12 sir?

13 A If a human didn't detect the change, then
14 the RLA would not detect it if the QR code and the
15 human-readable text match.

16 Q In the State of Georgia, even if an RLA
17 were to find -- strike that.

18 In the State of Georgia, even if an RLA
19 were to generate a different outcome for an election
20 than what was originally reported and certified
21 based on the tabulation of running the ballots
22 through the scanners at the polls, there's no legal
23 authority in Georgia that allows the Secretary of
24 State or anyone to rerun the election, right?

25 MR. MILLER: Objection. Calls for a legal

1 A No.

2 Q I gather you're not aware that he
3 testified in this case on behalf of the state that
4 he advises not using QR codes for BMDs; you were not
5 aware of that?

6 A No, I was not aware of that.

7 Q And you disagree with Dr. Shamos on that?

8 A I think that you can do it without the QR
9 code. I think that's a solution that would get rid
10 of a lot of these issues that we're discussing. So
11 I think it's feasible to do that.

12 Since you're asking about QR code, I guess
13 I'll be full disclosure here.

14 I have a forthcoming -- a paper under
15 review where we've created something called informed
16 optical character recognition, IOCR, that has given
17 100 percent accuracy in OCR for ballots. So that's
18 a forthcoming solution in probably 2022. So I have
19 worked in this area as well.

20 Q Are you aware that the Dominion equipment
21 that's used in Georgia currently already has the
22 ability to scan and count the human-readable portion
23 of the BMD ballot rather than the QR code?

24 A I can't remember -- I get them mixed up.
25 I can't remember if they had that, but I don't

1 know -- I haven't seen any data to see how accurate
2 it is, how it works. I haven't seen any of that.

3 Q That's not something you considered for
4 your opinions; is that right?

5 A I haven't seen it, so I don't know that I
6 can opine on that as far as Dominion's -- how they
7 do it, the accuracy. I don't have any knowledge of
8 that.

9 Q Do you share Dr. Shamos's recommendation
10 against using QR codes with BMDs for elections in
11 the United States?

12 A I think BMDs can -- QR codes can be used,
13 so I'm not totally against them. But I think -- if
14 I had my choice, I would recommend not using them to
15 eliminate all these discussions and concerns around
16 them.

17 Q Looking at paragraph 15 of your July
18 declaration again -- and if you need to pull that up
19 again, Dr. Gilbert, feel free. It's --

20 A I got it.

21 Q Okay.

22 A Okay. I got it. Yeah.

23 Q Where you indicate here that you're not
24 aware that Dr. Halderman has provided equipment
25 marred by undetectable hacks to any other

1 independent researcher to test his theory that it
2 is, in fact, undetectable and not correctable, did
3 you recommend to your client, the Secretary of
4 State's office in this case, that they do that?

5 MR. MILLER: Dr. Gilbert, I'm going to
6 instruct you not to answer that question on the
7 basis of privilege.

8 BY MR. CROSS:

9 Q Are you declining to answer?

10 A I decline.

11 Q Have you made any recommendations to
12 anyone that this independent research that you
13 identified in paragraph 15, that that should occur
14 in the State of Georgia for its election system?

15 A I don't recall.

16 Q And why would you not make that
17 recommendation as an election security expert who's
18 concerned about the reliability of elections in
19 Georgia and elsewhere?

20 A My understanding is getting access to the
21 equipment for general studies like that is a
22 complicated matter, as I mentioned before.

23 Q But you now know that it's available here
24 just as it was to Dr. Halderman. I think we've been
25 over this, right?

1 terms of manipulation through the computer equipment
2 because there's extra equipment, right?

3 A I -- I take issue with that from the
4 perspective of just counting and saying that there's
5 more computer equipment, therefore, there's more
6 risk. I don't agree with that. I don't agree with
7 that analogy.

8 Q One of the things that you point out is
9 that with hand-marked paper ballots, an insider can
10 alter votes where there are undervotes or overvotes,
11 for example, right?

12 A Yes.

13 Q And an insider can also alter votes in a
14 BMD system; we're agreed on that, right?

15 A Can you give me the scenario by which
16 you're referencing that?

17 Q Sure. Any of the ways that Dr. Halderman
18 identifies in his July 1 report.

19 A In the ways that he designated, an insider
20 with a certain level of technical expertise could
21 certainly do that versus with a hand-marked paper
22 ballot, 100 percent of the people inside can do
23 that.

24 Q Taking the undervote, for example, where
25 a -- a situation where, on a hand-marked paper

1 Q There are hacks that he identifies in his
2 report that allow that, right?

3 A It depends on which hack. Can you tell me
4 which hack you're referencing?

5 Q We're going to get to that. But right now
6 I'm trying not to get into the sealed stuff. I
7 just -- I just -- do you agree that there are hacks
8 identified in Dr. Halderman's report, at least one
9 or more hacks, that would allow an insider to change
10 votes on a mass scale, thousands, tens of thousands
11 or hundreds of thousands of votes, in a matter of
12 minutes with malware?

13 MR. MILLER: Objection. Asked and
14 answered.

15 THE WITNESS: Again, I need to know the
16 specific hack. I -- I don't want to claim that that
17 is the case without knowing the hack.

18 BY MR. CROSS:

19 Q As you sit here, you don't remember
20 whether there are any such hacks in his report?

21 A I need the context. I don't -- I need the
22 context.

23 Q What about a hack where the malware
24 changes the QR code and flips it from the intended
25 selection by the voter? Are you with me?

1 A Okay.

2 Q You understand that that is a hack that is
3 included in his report, right?

4 A Okay.

5 Q And you understand that an insider that is
6 able to put that malware into the system could do
7 that in a matter of minutes and change votes on a
8 mass scale, right?

9 MR. MILLER: Object to form.

10 THE WITNESS: I don't know on a mass
11 scale. An insider could do that and -- again, it
12 depends on the hack.

13 So my colleagues, Dr. Halderman,
14 Dr. Appel, several of them have said to me
15 repeatedly, when we do have the opportunity to talk,
16 that if they were going to hack an election, they
17 wouldn't change every vote. They'd selectively
18 change.

19 So when you say change a certain quantity,
20 that's why I need more context. Because even they
21 won't admit that they're changing every vote from a
22 candidate to another candidate.

23 So to say that it's a large scale, to say
24 that it would change a certain number, I need more
25 specifics, and then I can answer your question

1 accurately.

2 Because the context that I've been given
3 by them repeatedly is that, "No, no, no, no, no.
4 The reason no one is going to detect is because we
5 don't change all of them all the time. We don't
6 change that frequently."

7 So I hear that from them repeatedly. And
8 then your line of questioning suggests something
9 otherwise, so I need you to be specific so we have
10 this accurately recorded.

11 BY MR. CROSS:

12 Q All right. Let's do it this way: You've
13 got an insider who's changing votes on a hand-marked
14 paper ballot that takes them two to five seconds at
15 least, right?

16 A Okay.

17 Q Okay. So let's say an average of 3.5
18 seconds. We'll split it right down the middle. Are
19 you with me?

20 A Okay.

21 Q So we've got 10,000 votes that are getting
22 changed every 3.5 seconds, right? That gets us to
23 about 2,800 seconds. We divide that by 60, we get
24 to 47 -- make sure I get this right. Hold on.
25 Sorry. I did that wrong. I'll do this again.

1 Right. So 10,000 ballots at three and a
2 half seconds would be 35,000 seconds on average to
3 change 10,000 ballots, right?

4 A Okay.

5 Q Okay.

6 MR. MILLER: Object to form.

7 BY MR. CROSS:

8 Q And we divide that by 60, we get to over
9 583 minutes. Divide by 60 again, we get to almost
10 ten hours that it would take an insider to change
11 ballots in the way that you've suggested for
12 hand-marked paper ballots, which they would have to
13 do in an environment where they have access to the
14 ballots for ten hours and can do it undetected,
15 right?

16 A Right. According to your analysis, that
17 scenario plays out.

18 Q Do you understand that Dr. Halderman has
19 identified hacks -- for example, one that's commonly
20 discussed with these types of BMDs is changing --
21 flipping the QR code in a way that that could happen
22 in minutes, right, where an insider can embed the
23 malware in the BMD within minutes and flip 10,000
24 votes? You understand that, right?

25 A No. So let me make sure I understand what

1 you're asking.

2 Someone inserts malware that's going to
3 change the QR code, so it's going to change 10,000
4 votes and only 10,000 votes.

5 So what happens if that particular
6 precinct only has 5,000 votes? So it changed all
7 5,000 votes. And is it changing the QR code and the
8 human-readable text or just the QR code?

9 There's so many -- I need more context. I
10 don't know how else to put it.

11 Q Okay. All right. We'll come back to it
12 when we walk through Dr. Halderman's report.

13 Do you have your declaration in front of
14 you again?

15 A Yes.

16 Q Okay. In paragraph 8, you write, "Neither
17 of the Curling experts offer any scientific research
18 regarding voters' proclivity to review hand-marked
19 paper ballots to ensure their ballots are marked and
20 will count as intended."

21 Do you see that?

22 A Yes.

23 Q And you don't identify any such research
24 yourself, right?

25 A Right.

1 But yeah, I think that what I'm getting
2 at, the point that I'm making is a small number of
3 individuals whose votes get flipped would speak up,
4 and this would -- I don't know what the protocols
5 are or the steps are. Again, that's something we're
6 working on, what to do when this occurs. But I
7 don't know what the scenarios are currently in place
8 for something like this.

9 MR. CROSS: Let's go off the record.

10 THE VIDEO OPERATOR: Okay. Going off the
11 record at 1:08.

12 (Recess, 1:08 p.m. - 1:45 p.m.)

13 THE VIDEO OPERATOR: Back on the record at
14 1:45.

15 BY MR. CROSS:

16 Q Dr. Gilbert, we've talked about a couple
17 of ways that you've identified where hand-marked
18 paper ballots can be altered such as with changing
19 undervotes and overvotes, right? We talked about
20 that today?

21 A Right.

22 Q That can only happen after the ballots
23 have been tabulated in a system where the ballots
24 are tabulated on the scanner in the polls, right?

25 A It happens whenever the opportunity

1 presents itself. So it depends on the precinct and
2 how they handle their ballots. If they -- do the
3 voters automatically do it? Is it a centralized
4 tally? It just depends on the scenario.

5 Q So let's talk about a specific scenario, a
6 scenario in which Georgia has voters vote on
7 hand-marked paper ballots at the polls. That voter
8 takes that ballot, walks over to the scanner in
9 exactly the way they do today, and puts it into the
10 scanner themselves.

11 The only way that that vote could be
12 altered or that ballot could be altered in the way
13 that you've described would be after it runs through
14 the scanner and is tabulated, right?

15 A In that particular scenario, that seems to
16 be the case.

17 Q And so whatever alteration might happen to
18 that ballot after it's tabulated would not affect
19 the outcome of that election based on the results
20 that come out of the tabulation of the ballots,
21 right?

22 A Not necessarily.

23 My understanding is that certain margins
24 require an audit or recount; therefore, it would
25 have an impact.

1 A Yes.

2 Q And do you understand that when Governor
3 Kemp was the Secretary of State, he personally
4 selected Wenke Lee to serve as a cybersecurity
5 expert on the SAFE Commission specifically to help
6 determine a more -- new and more reliable election
7 equipment?

8 A Okay.

9 Q Do I understand correctly that you think
10 cybersecurity experts don't have the necessary
11 expertise to opine on election security?

12 MR. MILLER: Objection.

13 THE WITNESS: No, I never said that. No,
14 that's incorrect.

15 BY MR. CROSS:

16 Q In fact, we agree that cybersecurity
17 experts like Wenke Lee, Dr. Halderman, Dr. Appel,
18 have the necessary expertise to evaluate the
19 security of election equipment like BMDs in Georgia,
20 right?

21 MR. MILLER: Object to form.

22 THE WITNESS: No, I didn't say that,
23 either.

24 Dr. Appel, Dr. Halderman, I would agree
25 with. I know them. I don't know Dr. Lee and his

1 background, so I cannot speak to his credentials.

2 The fact that he was appointed to some
3 commission and given a title does not guarantee he
4 knows what he's doing or his credentials. So I
5 can't speak to that. I'm sorry.

6 BY MR. CROSS:

7 Q No, no. That's fair. That's fair.

8 You're not disputing that experts like
9 Dr. Halderman and Dr. Appel have the necessary
10 computer science expertise to evaluate the security
11 of election systems like that used in Georgia,
12 right?

13 A No, I do not dispute that. In fact, if I
14 was asked the question, "I have an election system.
15 We need someone to evaluate the security of it to
16 find vulnerabilities," at the top of my list would
17 be Appel, Halderman. That's where I would start.

18 Q Now, if you look here, if you continue on
19 in Exhibit 4, Dr. Lee goes on to say, "I ultimately
20 chose to vote against the Commission's final report
21 even though we agreed on many points."

22 Do you see that?

23 A Yes.

24 Q If you go to the next paragraph, he
25 writes, "The SAFE Commission was charged with

1 are used with BMDs, both the BMD and the printer,
2 right?

3 A Technically, there are fewer points of
4 computing devices as it relates to a hand-marked
5 paper ballot versus a BMD.

6 Q Right. Now let's come back to where we
7 were. I'm trying to get to a simple point.

8 An RLA is designed to confirm election
9 outcomes. It is not designed or capable of
10 confirming that an individual ballot counted the way
11 it was intended, right?

12 A I'm fine with that. Again, I -- go ahead.
13 I'm trying to understand your point.

14 I don't think you're understanding my
15 point about the RLA as it relates to hand-marked
16 paper -- the scanner giving you the wrong number
17 because it was hand-marked or if it gave you the
18 wrong number because of the QR code. No matter
19 what, it gave you the wrong number.

20 And again, Dr. Stark, who is very well
21 respected when it comes to these areas, and our
22 committee acknowledged that, and I find it hard to
23 believe that he would be wrong about this. I don't
24 think he's wrong.

25 Q I understand what you're saying. We're

1 want to make sure, there are people on the line
2 other than --

3 MR. CROSS: Yeah.

4 MR. MILLER: Okay.

5 THE WITNESS: I have it.

6 BY MR. CROSS:

7 Q Okay. Go page to page 15, and you'll see
8 a copy of the Fayette County official ballot.

9 A 15?

10 Q Page 15, and you'll see an image of --

11 A Okay. I got it.

12 Q You have that in front of you?

13 A Yes.

14 Q Okay. How many of the election selections
15 on that ballot are not Republican selections for the
16 candidates?

17 A Wait. Say that again. I didn't --

18 Q How many of the selections made on that
19 ballot are not Republican candidates that were
20 selected?

21 A Are not Republican? So count everyone
22 who's not a Republican?

23 Q Correct.

24 A I counted six.

25 Q And point out the ones that you're

1 top.

2 A I got it. I got it. I'm on that page
3 now.

4 Q Okay. If you come down below, do you see
5 the third paragraph where Dr. Halderman wrote, "[REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] "?"

11 Do you see that?

12 A I do see that.

13 Q Were you asked, for the purpose of your
14 engagement, to conduct the same type of analysis or
15 were you asked to do something different?

16 A I was not asked to do that. No, I was
17 not.

18 Q If you come down below, you'll see the
19 next heading is "[REDACTED]."

20 Do you see that?

21 A Yes, I do.

22 Q And then at the bottom, you'll see, just
23 before the number 1 paragraph, it reads, "[REDACTED]

24 [REDACTED]

25 [REDACTED]

1 Do you see that?

2 A I do.

3 Q And in your declaration, you don't dispute
4 that any of the number of vulnerabilities that he
5 has in paragraphs 1 through 7 are present in the
6 election equipment used in Georgia, right?

7 MR. MILLER: Object to form.

8 THE WITNESS: Number one, [REDACTED]
9 [REDACTED] that -- I trust that he was able to do that,
10 so I don't dispute that.

11 I would say, you know, given access and
12 time that he was given, I think these -- I don't
13 question him being able to accomplish any of these.
14 BY MR. CROSS:

15 Q Come to the -- it's page 7 of 97. Near
16 the top it says, "[REDACTED] in bold.

17 A Got it.

18 Q Do you see here -- do you see the
19 sentence, it's the second sentence that begins,
20 "However"?

21 A Yes.

22 Q And Dr. Halderman wrote, "[REDACTED]
23 [REDACTED]
24 [REDACTED]."

25 Do you see that?

1 A I do.

2 Q In your declaration, you don't disagree
3 with that opinion, right?

4 A I don't agree -- I don't know that I agree
5 or disagree with it as far as what he -- what he's
6 constituting as patching. I don't know what that
7 means. Merely patching, I'm not sure what the
8 context is, what that means.

9 Q You didn't undertake any analysis into
10 what kind of patching could be adopted to mitigate
11 the vulnerabilities he identifies in his report,
12 right?

13 A No, I did not. And I would say that -- I
14 would like -- it would be interesting for
15 Dr. Halderman to say what patching he's referring
16 to.

17 In addition to that, I go back to our
18 previous discussion about this. When he says the
19 patching, is that referencing reliably secure? Is
20 that the same thing or not?

21 Q All right. If you come down, do you see
22 below that, it says, "[REDACTED]"? It's
23 Section 1.2?

24 A Yes, I do.

25 Q And then he's got a number of paragraphs

1 set off by bullets.

2 Do you see that?

3 A Yes.

4 Q And in your declaration, you don't dispute
5 any of the technical findings that he has listed
6 there, right?

7 A The [REDACTED], I do not agree with
8 that.

9 Q What paragraph are you at?

10 A The second bullet.

11 Q Where in your declaration do you dispute
12 that?

13 A I don't -- I don't know if I spoke
14 directly to this in my declaration or not, but I --
15 you know, this particular notion that [REDACTED]
16 [REDACTED], I -- I don't agree with that.

17 Q Do you see -- I'm sorry. I didn't mean to
18 cut you off.

19 A You asked me, do I disagree with any of
20 the points, and I'm telling you that I disagree, for
21 example, with that point immediately. I can look at
22 the others, but I can tell you, just looking at it,
23 I saw DRE and I saw that comment, I can immediately
24 tell you I do not agree with that.

25 Q My question was actually more precise

1 about whether you disagree in your declaration,
2 because my focus is on the opinion you've put in
3 this case. But I understand your testimony.

4 Looking at this particular piece or this
5 particular point about the DREs, do you see where
6 his writes in the second sentence of that paragraph,
7 "[REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED] "?

12 Do you see that?

13 A Yeah, I see that.

14 Q And he goes on, "[REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]."

19 Do you see that?

20 A I see that.

21 Q And in your declaration responding to this
22 report, you don't dispute his opinions in either of
23 those sentences, right?

24 A I don't recall. Let me pull up my
25 declaration. I can look.

1 But if I didn't dispute them, I'm telling
2 you now I do dispute it. It may have not appeared
3 in my declaration, but I do not agree that the BMD
4 is at the same level in any comparison as the DRE.

5 Because just as he did a study on voters
6 verifying their ballots, in a real election
7 scenario, in the scenario where some people are
8 actually worried about votes flipping, and they're
9 all verifying their ballots, you're going to tell me
10 that somehow you're going to change the outcome of
11 an election with this -- with everyone verifying? I
12 don't believe that. Whereas the DRE, you could
13 easily do that because it's impossible to verify.
14 Here, you can verify. DRE, you cannot. So I think
15 that's disingenuous to compare the two at that
16 level.

17 Q Where does Dr. Halderman say here that
18 what he's looking at has anything to do with
19 changing election outcomes?

20 A That's the whole intent of the hack.

21 Q Okay. That's your understanding of what
22 he's saying here?

23 A My understanding of Dr. Halderman's
24 overall objective is to change the outcome of the
25 election undetected and where it can't be corrected.

1 Q You don't have an understanding that
2 Dr. Halderman is looking at whether individual
3 voters can be disenfranchised by having their
4 individual votes altered even if the election
5 outcome is not altered? You don't understand that
6 part of his analysis?

7 A I've never heard him say that, and I don't
8 see that as his analysis. That's not how I'm
9 interpreting anything he's written. No.

10 Q So you -- in responding to his report
11 here, his July 1 report, your understanding was that
12 what he was talking about was only about whether
13 these hacks can result in changes to the election
14 outcomes as opposed to simply changing individual
15 votes that may not rise to the level of changing
16 outcomes?

17 A I think the -- the context that I read his
18 work and his declaration is the ability to change
19 the outcome of the election, changing both so that
20 it's undetectable and can't be corrected.

21 Q And in this paragraph we're looking at
22 where he is comparing the ICX BMDs to the AccuVote
23 TS and TS-X DREs, you understand that what he's
24 comparing there are specific cybersecurity
25 vulnerabilities within the computer equipment,

1 right?

2 A Well, in the next sentence where he talks
3 about [REDACTED]
4 [REDACTED], those are things he's referencing. From
5 that perspective, that's what he's referencing. I
6 see that.

7 Q There are these bulleted technical
8 findings that we're looking at under his main
9 conclusions. Are there any others that you dispute
10 in your declaration?

11 A I don't recall directly disputing -- I
12 don't know -- it goes to my declaration. I have
13 to -- I need to pull out my declaration and go point
14 by point down my declaration and see -- look at each
15 one of these points and then go back and see if I
16 reference that or talk about it in my declaration.

17 Do you want me to do that exercise?

18 Q Unfortunately I have to have you do that
19 exercise because I need to know whether you're
20 talking a position that your declaration refutes any
21 of these points.

22 A Okay. So point 1, "[REDACTED]
23 [REDACTED]" -- okay. Point 1 is
24 not specific.

25 I already addressed point 2.

1 Point 3, "[REDACTED]
2 [REDACTED]" -- all right. So Point 3, he's saying that
3 [REDACTED]
4 [REDACTED], which you were
5 asking, do I understand the context. That's exactly
6 what he just said here.

7 Let's see.

8 Q Let's just pause there so we're on the
9 same page.

10 He says the [REDACTED]
11 [REDACTED] [REDACTED]
12 [REDACTED].

13 That's what he wrote there, right?

14 A Those are different things?

15 Q You don't understand that individual votes
16 are distinct from election outcomes? You consider
17 them the same?

18 A Election outcomes are based on individual
19 votes, are they not?

20 Q But you understand that a voter can be
21 disenfranchised when their vote does not count even
22 if the election outcome is not altered by the
23 failure to count their vote, right?

24 MR. MILLER: Objection. Calls for a legal
25 conclusion.

1 THE WITNESS: Can you point to me in this
2 declaration that we're looking at for Dr. Halderman
3 where he says that? I may have missed it. I'm
4 sorry.

5 BY MR. CROSS:

6 Q You mean where he writes, "[REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]"?

10 Are you asking for something other than
11 what he wrote there?

12 A You're saying that the disenfran- -- how
13 did you say -- disenfranchisement of an individual
14 vote and not changing the outcome of an election?

15 Q Do you understand that a voter --

16 A Wait. Wait. Before you ask me that, I'm
17 asking you, can you point to me in the document
18 where he said that?

19 Q I'm not -- Dr. Gilbert, I'm not the
20 witness, and I'm not representing you about language
21 of disenfranchisement, okay?

22 You asked me to show you where he talks
23 about evaluating the impact on individual votes and
24 on election outcomes. We're reading a sentence
25 here.

1 If you'd like to go through it and find
2 others, we can do that. I'm trying to make sure I
3 understand your view here.

4 Do you understand that a voter can cast a
5 vote in an election, have that vote not count
6 because it is altered in some way, it's lost, any
7 variety of things could happen, and yet that does
8 not alter the election outcome? Are we agreed that
9 that is a scenario that can happen?

10 A Yes, I agree that's a scenario that can
11 happen.

12 Q And in that scenario, that individual
13 voter has been harmed by not having their vote
14 counted.

15 MR. MILLER: Objection. Legal conclusion.
16 BY MR. CROSS:

17 Q I mean, do you dispute that, that every
18 voter wants their vote to count?

19 A No, I don't dispute that.

20 Q Okay.

21 A I guess the point that I'm making is, if
22 individual votes change -- outcomes are determined
23 by individual votes. So I was trying to understand
24 where you were going, but I see your point.

25 You're talking about disenfranchisement of

1 individual voters, which I would also say I would
2 agree with that. Just as I stated earlier, people
3 with disabilities are individual voters, and they
4 want the right to a private ballot and a fair ballot
5 as well. Shouldn't their votes be counted and not
6 be disenfranchised either?

7 So yes, I completely agree with that.
8 Yes. You're right. Individual voters, every one,
9 including those with disabilities.

10 Q I will say, Dr. Gilbert, that we have
11 found something that we're in violent agreement on,
12 particularly for voters with disabilities.

13 A Okay. So he's talking -- the third one is
14 about QR codes. Let's see. In my -- let's see.
15 Let me look for QR codes. Do I talk about QR codes
16 in here?

17 In my declaration, paragraph 12, I talk
18 about QR codes.

19 Q Just so we're clear, you don't dispute
20 that -- strike that.

21 You don't dispute Dr. Halderman's finding
22 that the [REDACTED]

23 [REDACTED] that's
24 used in Georgia; you don't dispute that, right?

25 A I do not dispute that, given time and

1 access, that you can [REDACTED]

2 [REDACTED].

3 I do not dispute that.

4 Q And you haven't undertaken any analysis to
5 determine how much time it would take for a hacker
6 to do that if they wanted to do it, right?

7 A No, I have not done that. As I mentioned
8 earlier, I don't hack systems. That's not my
9 expertise, so I wouldn't have done that.

10 That's a great question to ask
11 Dr. Halderman, how long does it take to do such an
12 exercise.

13 MR. CROSS: You might want to write that
14 down, Carey.

15 THE WITNESS: And with that, as far as the
16 time it takes, again, that's not my area, but I
17 think it would be interesting to find the answer to
18 that.

19 And I'd be interested -- again, in the
20 same spirit that I mentioned earlier about
21 Dr. Halderman hacking a system and giving it to a
22 third party, the same thing could be true where
23 Dr. Halderman is given a system and then put on the
24 clock to determine how long it takes him to hack it,
25 not one that he's seen for 12 months.

1 BY MR. CROSS:

2 Q Are you aware that there are individuals
3 that are claiming to have released proprietary
4 election management software from Dominion like that
5 used in Georgia?

6 A I am not aware of that, but I am not
7 surprised that -- whether it's true or not, the
8 allegation would be out there is not a surprise to
9 me.

10 Q Why not?

11 A It's the climate we live in. Just
12 misinformation, disinformation. Just, I'm not
13 surprised.

14 Q Would you be concerned if that allegation
15 is true that proprietary election software from
16 Dominion was leaked, for example, by a clerk who had
17 access to it in one of the election challenge
18 proceedings in a state like Arizona?

19 MR. MILLER: Object to form.

20 THE WITNESS: I wouldn't be severely
21 concerned.

22 Again, I think the verification piece is
23 more important to me. So I would -- you know, and
24 I'm willing -- I'd be willing to consider this.
25 That was another piece.

1 If people are verifying their ballots and
2 it's wrong, they correct them, and that would tell
3 you things, so you would get it right.

4 So even if you did hack it, if people were
5 verifying it, you'd get it right.

6 BY MR. CROSS:

7 Q Isn't one of the challenges with voter
8 verification is that even if you're right that
9 voters can reliably identify when their votes are
10 being altered from what they cast, that only occurs
11 once the election is underway, right?

12 A Right.

13 Q So shouldn't you, as an election security
14 expert -- don't you agree that rather than the
15 mechanism for securing an election being one that
16 has to play out when the election is already
17 underway, there should be measures that are taken
18 before the election even begins to make the election
19 as secure as it can reasonably be?

20 A I think that's a good approach, and I hope
21 that Dr. Halderman and others will -- I hope you
22 will communicate to them to relay publicly what is
23 reasonable security so that we can implement those,
24 and those standards can be used if they are willing
25 to accept what they are.

1 So yes. What you just said is a reference
2 to reasonable security implementation for these
3 systems which none of them, to my knowledge, have
4 ever said. But if they can do that recommendation,
5 I appreciate it. And again, I said I'm working on
6 things in this area, which I look forward to
7 engaging them on in '22.

8 Q You've testified in your declaration and
9 here today that voter verification is one of the
10 primary ways to protect against the particular hacks
11 that Dr. Halderman identifies in his July 1 report,
12 right?

13 A Right.

14 Q As an election security expert, don't you
15 think that the better approach would be to actually
16 remedy the hack, to take measures that prevent the
17 hacking in the first place, rather than leaving it
18 to voters to discover it on their ballots in the
19 middle of an election?

20 A That's -- to me, that's an ideal scenario.
21 But I would say that my colleagues, Dr. Halderman
22 and Dr. Appel, et cetera, would say there is no way
23 to secure a machine, given time and access,
24 100 percent. The verification is the one thing we
25 can secure independent of the hacks that they

1 implement.

2 So again, I'm going back to the reference
3 of reasonably secure. I suspect that doesn't exist
4 because I don't think they can live with themselves
5 saying that there's a way -- a computer system that
6 would be acceptable in voting because their job is
7 to break things.

8 But if they were to announce that and say
9 that, that would be a remarkable thing we could all
10 agree upon and move forward in a positive direction
11 upon if there is such a reasonable secure standard.

12 Q You keep talking about Dr. Halderman and
13 Dr. Appel, but -- and I understand that you perceive
14 a disagreement among you.

15 I'm really focusing right now on your
16 position. Your position, as I understand it, is
17 that BMDs can be reliably used.

18 And my question to you is, rather than
19 relying on voter verification to catch a hack or a
20 glitch in the system once an election is already
21 underway, don't you agree as an election security
22 expert that those who are responsible for these
23 machines and for elections should take reasonable
24 measures to prevent the hacking in the first place,
25 for example, taking measures to mitigate what

1 Dr. Halderman has found with these machines?

2 MR. MILLER: Objection. Vague, asked and
3 answered.

4 THE WITNESS: Well, I would say I agree
5 with reasonable measures. You and I agree on that,
6 and I hope Dr. Halderman and them -- I'm so excited
7 to hear this, and I am eager to see what comes out
8 of this.

9 But yeah, reasonable measures. See, to
10 me, the question is, what is reasonable? And I want
11 to hear what reasonable is.

12 You're using the term, and I'm -- I'm
13 using the term, and hopefully we are on the same
14 page what that actually was going to look like.

15 But yeah, I think that's true. Reasonable
16 security, that makes sense to me.

17 BY MR. CROSS:

18 Q As an election security expert, why would
19 it be sensible to use an election system that
20 possesses all of the vulnerabilities that
21 Dr. Halderman has identified in Georgia and leave it
22 to voters to identify a hack by carefully reviewing
23 their ballots, including ballots like the one you
24 just looked at, from an actual election in Georgia,
25 rather than taking necessary measures on the front

1 end to mitigate those vulnerabilities?

2 A I think you could take necessary measures
3 to make it reasonable, as you said. But again, even
4 in a hand-marked paper ballot scenario, I gave you
5 an example where voters don't verify those and you
6 have issues.

7 So the burden is on the voter either way
8 to actually verify the ballot. Even hand-marked
9 paper ballots have to be verified.

10 Q Right. But what we've established is, I
11 thought, that the burden on the voter is much higher
12 with BMDs because the BMD allows a hack that can
13 change votes on a large scale the voters may not
14 even be able to detect on their ballot such as a
15 change in the QR code, right?

16 A A change in the QR code cannot be detected
17 by the voter. I think we all agree on that.

18 Q And the type -- sorry.

19 A What I'm saying is, in the case of the
20 hand-marked paper ballots, I gave you examples where
21 large-scale votes were changed. Large-scale votes.
22 Large. So you can't minimize the impact either way
23 of voter verification. There's -- the burden is
24 there in both scenarios.

25 Q Just be precise. You've not given a

1 situation where large-scale votes were changed in a
2 hand-marked paper ballot. You're testifying about
3 the situation in Florida where the vote they cast
4 was not the vote they intended. But their vote
5 wasn't changed from the way it was cast on the
6 ballot, right?

7 A It wasn't changed the way they cast, but
8 they cast it -- the design caused them to cast it
9 the wrong way. I don't see a distinction either
10 way.

11 Q I didn't want to cut you off when you were
12 looking at the main conclusions.

13 Are there any other -- any findings here
14 that you dispute?

15 A Okay. I talk about QR codes. I talk
16 about using BMDs for only with people with
17 disabilities.

18 Q Which bullet are you on?

19 A The second-to-the-last bullet, using
20 vulnerable -- and it talks about all in-person
21 voters.

22 Okay. So I know I talk about those things
23 in my declaration.

24 Q All right. Go to page 19 of 97, if you
25 would. And the heading is "4.2 [REDACTED]."

1 A Got it.

2 Q Do you see in the third paragraph down
3 that begins "[REDACTED]"?

4 A Yes.

5 Q And here Dr. Halderman writes, "[REDACTED]
6 [REDACTED]
7 [REDACTED],
8 [REDACTED]
9 [REDACTED]."

10 Do you see that?

11 A Yes.

12 Q And you don't dispute in your declaration
13 that the printer that's used with the BMD system in
14 Georgia is, in fact, an off-the-shelf printer like
15 the one that Dr. Halderman used, right?

16 A No, I do not dispute that. I don't have
17 access to the actual printer being used, but I
18 didn't dispute that at all.

19 Q And then if you come down, do you see the
20 paragraph that begins, "[REDACTED]" on the same
21 page, a couple below where we were?

22 A Let's see.

23 Q Two paragraphs --

24 A I got it. I see it.

25 Q Here Dr. Halderman wrote, "[REDACTED]"

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 Do you see that?

7 A Yes.

8 Q He goes on to talk about the election
9 packages that he received.

10 Do you see that?

11 A Yes.

12 Q You don't address that data in your
13 declaration, right?

14 A No, I do not.

15 Q Do I understand, is that not something
16 you've analyzed?

17 A No, I have not analyzed that.

18 Q If you come to the next paragraph, do you
19 see where it reads, "[REDACTED]"?

20 A Yes.

21 Q He writes, "[REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]."

25 He goes on to say, "[REDACTED]"

1

2

3

4

."

5

Do you see that?

6

A Yes.

7

8

Q And you don't dispute his opinion there on what that indicates in your declaration, right?

9

A I do not discuss that in my declaration.

10

11

12

Q You previously testified in this case that your understanding is that the BMD election system is air-gapped, right?

13

A Yes.

14

15

16

17

Q I think you testified before that you're assuming that to be true based on some materials you looked at describing how the system is supposed to operate and be set up; is that right?

18

A Correct.

19

20

21

Q You've not yourself confirmed that any aspect of Georgia's election system is, in fact, air-gapped, right?

22

23

A I have not had a Georgia system in my possession to do any evaluation.

24

25

Q And you did not undertake any analysis or investigation with your client in this case to

1 Do you see that?

2 A Yes, I see that.

3 Q Mr. Tucker writes, "Michael, is the state
4 providing new USB drives for the counties to send
5 their L&A exports and E-Day exports to you on or
6 should they use the USB drive they have from the
7 previous system?"

8 Do you see that?

9 A Yes.

10 Q Do you understand that January of 2020 is
11 in the time frame of when Georgia was rolling out
12 the new BMD system, switching from the DREs to the
13 Dominion system?

14 A Okay.

15 Q Do you recall one way or the other whether
16 that's right?

17 A I don't recall when they -- when they did
18 that, but --

19 Q Okay.

20 A -- okay.

21 Q And then Mr. Barnes responds same day
22 saying, "The counties can use the USB that the state
23 has previously provided."

24 Do you see that?

25 A Yes, I do.

1 Q Are you aware that this is an exhibit that
2 we introduced during the hearing in September of
3 last year in which you also testified?

4 A Like I said, I don't remember this, but
5 okay.

6 Q There's no indication in your declaration
7 that you've had any -- conducted any investigation
8 into what's being discussed here and whether USB
9 drives that were used with the DRE system have also
10 been used with the new BMD system. That's not
11 something you've looked into, correct?

12 MR. MILLER: Objection. Relevance.

13 THE WITNESS: No, I have not.

14 BY MR. CROSS:

15 Q And you previously testified in this case
16 that the new BMD system is completely separate and
17 unconnected to the old DRE system, right?

18 A Yes, I did.

19 Q But if the counties were using USB drives
20 with the new Dominion system that they previously
21 had used with the DRE system, that certainly would
22 raise the possibility for an exchange of data
23 between those two systems, right?

24 MR. MILLER: Objection. Relevance.

25 THE WITNESS: I think you said it

1 correctly. Possibility.

2 So it's possible that these drives could
3 have been completely wiped and reformatted. It's
4 possible that they could have been tainted. So it's
5 possible a lot of different things based on what you
6 are saying.

7 BY MR. CROSS:

8 Q You didn't think that it was relevant for
9 your opinions in this case to determine whether the
10 counties or the state are using USB drives with the
11 new system that were previously used with the DRE
12 system without wiping them, without securing them,
13 without ensuring that they're not compromised?

14 A I did not ask that question.

15 Q Do you think that that's a relevant
16 question for evaluating the security of the new
17 election system?

18 A I think that is a relevant question, and
19 it should be asked.

20 I think the protocol of what's obviously
21 exchanged -- anything connected to the voting system
22 should be evaluated, obviously.

23 Q Evaluated how?

24 A All kinds of ways. It depends on what
25 you're connecting to it.

1 Q I'm sorry. Can you explain what you mean?

2 A For example, if you're connecting a USB to
3 the system, it should be wiped. That's a clean -- a
4 way to clean the -- keep the system clean, avoid
5 issues. Standard protocol in many places in shops
6 that have technology.

7 So evaluating what is connected, what's
8 the data on there, those questions are things that
9 have to be looked at.

10 Q Why didn't you look at that on behalf of
11 the state with respect to things like the USB drives
12 that we see being discussed here for your work?

13 A I was -- I was focused on what was
14 given -- I was not given USB drives. I was not
15 given any technology.

16 My focus, again, was on Dr. Halderman and
17 Appel's analysis. That's where my focus was on. I
18 don't have any equipment, never have received any
19 equipment, technology, from the State of Georgia.

20 Q If you come back to Dr. Halderman's
21 report, the July 1 report, the page we were on
22 before, page 19 of 97 --

23 A Okay.

24 Q -- at the bottom, do you see where it
25 says, Section 4.3, "[REDACTED]"?

1 A Yes, I do.

2 Q You don't offer an opinion in this case
3 that Dr. Halderman's methodology for his analysis in
4 his report was in any way improper or unsound,
5 right?

6 A I do not.

7 Q Come to page 22 of 97. You'll see there's
8 a heading in the middle of the page, Section 5.2,
9 "[REDACTED]."

10 A Yes.

11 Q And here he writes, "[REDACTED] [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Do you see that?

16 A Yes.

17 Q You don't dispute in your declaration that
18 ICX QR codes are not protected against replay
19 attacks, right?

20 A I do not.

21 Q If you come down to page 24 of 97, do you
22 see where it says, "[REDACTED]"?

23 A Yes.

24 Q And here he wrote, "[REDACTED]
25 [REDACTED]

1 [REDACTED] [REDACTED]

2 [REDACTED]

3 [REDACTED], " and he refers to Section 11.1. He

4 says, "[REDACTED]

5 [REDACTED]."

6 Do you see that?

7 A I do see that.

8 Q And you don't dispute in your declaration
9 his finding on the ability to copy the ballots,
10 right?

11 A I do not.

12 Q Next, he refers again to the [REDACTED]

13 [REDACTED]

14 Do you see that?

15 A Yes.

16 Q Come to page 29 of 97.

17 A Okay.

18 Q Do you see there's a picture at the top
19 of -- it looks like access cards?

20 A Yep.

21 Q Do you see where it says, "[REDACTED]

22 [REDACTED]"?

23 A Yes.

24 Q And then he writes, "[REDACTED]

25 [REDACTED]

1 [REDACTED] . "

2 Do you see that?

3 A Yes, I do.

4 Q He goes on to say at the end, "[REDACTED]

5 [REDACTED]

6 [REDACTED] . "

7 Do you see that?

8 A I do.

9 Q You don't dispute that finding in your
10 declaration, right?

11 A I do not.

12 Q If you come down to the heading 6.1 on the
13 same page --

14 A Yep.

15 Q -- it reads, "[REDACTED]
16 [REDACTED] . "

17 Do you see that?

18 A I do.

19 Q Here he writes, "[REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED] . "

23 Do you see that?

24 A I do.

25 Q And you don't dispute that finding in your

1 declaration, right?

2 A I do not.

3 Q All right. Come to the next page, heading
4 6.2.

5 A Yes.

6 Q It says, "[REDACTED]
7 [REDACTED]."

8 Do you see that?

9 A I do.

10 Q And here he writes, "[REDACTED]
11 [REDACTED]
12 [REDACTED] [REDACTED]
13 [REDACTED]
14 [REDACTED]."

15 Do you see that?

16 A I do.

17 Q And you don't dispute that finding in your
18 declaration, right?

19 A No, I do not.

20 Q Come down to the next page, please,
21 heading 6.3.

22 A Got it.

23 Q Here it reads, "[REDACTED]
24 [REDACTED]

25 Do you see that?

1 A Yes.

2 Q He writes, "[REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Do you see that?

7 A I do.

8 Q You don't dispute that finding in your
9 declaration, correct?

10 A I do not.

11 Q Come to the next page, 33 of 97,
12 heading 7.

13 A Page 33, you said?

14 Q Yes, sir. Heading 7.

15 A I'm there.

16 Q Okay. Come down to heading 7.1.

17 Do you see that?

18 A Yeah, I'm there.

19 Q He writes, "[REDACTED]

20 [REDACTED]

21 [REDACTED]."

22 Do you see that?

23 A Yes.

24 Q You don't dispute that finding in your
25 declaration, correct?

1 A I do not.

2 Q Come to the next page, please,
3 heading 7.2.

4 A Yes.

5 Q Here he writes -- the heading is

6 "[REDACTED]." And he writes, [REDACTED]
7 [REDACTED],
8 [REDACTED]."

9 Do you see that?

10 A Yes.

11 Q You don't dispute that finding in your
12 declaration, correct?

13 A I do not.

14 Q Go on page 36 of 97, please.

15 A Okay.

16 Q He has heading 7.5, "[REDACTED]
17 [REDACTED]

18 Do you see that?

19 A I do.

20 Q He writes, "[REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]."

24 Do you see that?

25 A I do.

1 Q You don't dispute that finding in your
2 declaration, correct?

3 A I don't think I dispute this. No, I do
4 not.

5 Q And then he goes on to refer to defeating
6 logic and accuracy testing.

7 Do you see that?

8 A I do.

9 Q And he -- at the end of that paragraph, he
10 concludes, "[REDACTED]

11 [REDACTED]
12 Do you see that?

13 A At the end of that paragraph? I don't see
14 it.

15 Q Do you see the short paragraph that has
16 the bolded language, "[REDACTED]

17 [REDACTED]
18 A Yeah, I do.

19 Q If you come to the end of that short
20 paragraph, the last sentence reads, "[REDACTED]
21 [REDACTED]."

22 A I don't see that anywhere. I see
23 "[REDACTED]" --

24 Q You're too far down. I'm sorry. Come up
25 above -- just below the heading 7.5, the bolded

1 language, "[REDACTED]." 2

3 A Okay. I'm there.

4 Q So stay in that same short paragraph.

5 A I see it. I see it. "[REDACTED]
6 [REDACTED]." I see it now. The last
7 sentence in that paragraph. Okay.

8 Q Yes. And you don't dispute that finding
9 in your declaration, right?

10 A I did not dispute that in my declaration.

11 Q Okay. If you come down to where you were
12 looking at a moment ago, the bolded language at the
13 bottom of that page that reads, "[REDACTED]
14 [REDACTED]," do you see that?

15 A Yes.

16 Q At the end of that paragraph, still on the
17 same page, he concludes, [REDACTED]
18 [REDACTED]."

19 Do you see that?

20 A Yes.

21 Q You did not dispute that finding in your
22 declaration, correct?

23 A No, I did not.

24 Q Okay. Come to the next page, please.

25 A Okay.

Q Do you see at the bottom of the next page

1 there's a bold heading, "[REDACTED]"

2 [REDACTED]

3 A Yes.

4 Q If you come down just three or four lines,
5 the sentence that begins "However"?

6 A Yes.

7 Q He writes, "[REDACTED]"

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]"

11 Do you see that?

12 A Yes.

13 Q You don't dispute that finding in your
14 declaration, right?

15 A I did not.

16 Q If you come to the next page --

17 A Yes.

18 Q -- at the top he writes, "[REDACTED]"

19 [REDACTED]."

20 Do you see that?

21 A Yes.

22 Q Come to the beginning of the very next
23 paragraph. Do you see where it begins, "[REDACTED]"

24 [REDACTED]"?

25 A Yes.

1 Q And he writes, "[REDACTED]
2 [REDACTED]
3 [REDACTED]."

4 Do you see that?

5 A I do.

6 Q You don't dispute that finding in your
7 declaration, right?

8 A I do not.

9 Q Come to the next bold heading on the same
10 page that reads, "[REDACTED]
11 [REDACTED]

12 Do you see that?

13 A Yes.

14 Q He writes, "[REDACTED]
15 [REDACTED], " right?

16 A Right.

17 Q And we're agreed on that, right?

18 A Yes. To my knowledge, I don't know how
19 they would verify it. The only way I've seen
20 that -- and I don't -- I haven't seen this. But I
21 know other systems -- and when we designed -- we
22 designed this many years ago -- take the ballot and
23 stick it in another machine to get a summary
24 display, or have the tally, the scanner, give you
25 a -- I guess a ballot summary, and you can compare

1 it to the ballot summary that's on there.

2 But I -- other than that, people cannot
3 read the QR code itself.

4 Q One of the things you suggested in an
5 earlier declaration in this case is that the state
6 should do parallel testing of a single BMD during an
7 election.

8 Do you recall suggesting that?

9 A Yes.

10 Q Do you think that testing a single BMD out
11 of over 30,000 that are used across the state
12 provides a meaningful test of the security and
13 reliability of those BMDs as a whole?

14 A That's not what I recommended. But to
15 answer your question, no, that would not. You have
16 all those, and you're just testing one? No, that
17 wouldn't make a difference. But if you test one in
18 every precinct, that's different.

19 Q Okay. So it's your recommendation to test
20 one in every precinct during the election in
21 parallel testing?

22 A That is something I have recommended. It
23 has pros and cons. But that's way better than just
24 picking one particular BMD in the State of Georgia
25 and parallel testing it. Yeah, that wouldn't make

1 much sense.

2 Q Okay. Come to page 40 of 97 in
3 Dr. Halderman's report, section heading 8.1.

4 A Got it.

5 Q You see it reads, [REDACTED]

6 [REDACTED] "?

7 A Yes.

8 Q And he writes, [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] ."

12 Do you see that?

13 A I do.

14 Q You don't dispute that finding in your
15 declaration, correct?

16 A I do not.

17 Q Come down to the next page under the
18 pictures.

19 A Okay.

20 Q Do you see where it says, "Figure 9"?

21 A Yes.

22 Q And here it reads, "[REDACTED]

23 [REDACTED] ."

24 Do you see that?

25 A I do.

1 Q Dr. Halderman writes, "[REDACTED]
2 [REDACTED].
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]."

8 Do you see that?

9 A I do.

10 Q And you don't dispute that finding in your
11 declaration, correct?

12 A I do not.

13 Q Come to the top of the next page, please.

14 A Okay.

15 Q You see there's a picture, and below that
16 it says, "Figure 10"?

17 A Yes.

18 Q And then it reads, "[REDACTED]
19 [REDACTED]."

20 Do you see that?

21 A I do.

22 Q And here Dr. Halderman writes, "[REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1

[REDACTED]

2

[REDACTED]

3

[REDACTED]

4

[REDACTED] "

5

Do you see that?

6

A I do.

7

Q And you do not dispute that finding in

8

your declaration, correct?

9

A I do not.

10

Q Go to section heading 8.2.

11

A Okay.

12

Q It reads [REDACTED]

13

Are you with me?

14

A Yes, I am.

15

Q And then Dr. Halderman writes, "[REDACTED]

16

[REDACTED]

17

[REDACTED]

18

[REDACTED]

19

[REDACTED] ."

20

Do you see that?

21

A I do.

22

Q And you don't dispute that finding in your

23

declaration, right?

24

A I do not.

25

Q If you stay in that same section, do you

1 see the very next paragraph begins, "[REDACTED]"

2 [REDACTED] "?"

3 A Yes, I see it.

4 Q Dr. Halderman writes, "[REDACTED]"

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]."

9 Do you see that?

10 A Yes.

11 Q In the next paragraph he writes, "[REDACTED]"

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] [REDACTED]

15 [REDACTED]

16 [REDACTED]."

17 Do you see that?

18 A I see that.

19 Q You don't dispute that finding in your
20 declaration, correct?

21 A I do not.

22 Q If you stay on that same page, the
23 paragraph we just read, do you still have that in
24 front of you?

25 A I do.

1 Q If you come above, do you see where
2 Dr. Halderman indicates that he previously drew an
3 analogy to the Boeing 737 MAX aircraft, where a
4 small, last-minute change to correct a single
5 problem inadvertently created a much more dangerous
6 failure mode that reportedly led to two fatal
7 crashes?

8 Do you see that?

9 A I do.

10 Q Are you familiar with that situation with
11 Boeing?

12 A I am not.

13 Q Come to page 44 of 97, if you would.

14 A Real quick, the Boeing example that you
15 gave, just to make a note, I'm not familiar with
16 that, but that's an example of what cybersecurity
17 people would be very well aware of.

18 Q Got it. Understood.

19 A Where do you want me to go?

20 Q Sorry. Page 44 of 97.

21 A Okay. I'm there.

22 Q Do you see the heading 8.3?

23 A Yes. Got it.

24 Q And it reads, "[REDACTED]
25 [REDACTED]."

1 Do you see that?

2 A I do.

3 Q And then Dr. Halderman writes, "[REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]."

7 Do you see that?

8 A Yes.

9 Q You don't dispute that finding in your
10 declaration, correct?

11 A I do not.

12 Q All right. Come to the next page, please,
13 under heading 8.5.

14 A Okay.

15 Q And here it reads, "[REDACTED]

16 [REDACTED] right?

17 A Yes.

18 Q And Dr. Halderman writes, "[REDACTED]

19 [REDACTED]" -- I'm sorry. Let
20 me try that again.

21 Here Dr. Halderman writes, "[REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] [REDACTED]

1

[REDACTED]

2

[REDACTED]."

3

Do you see that?

4

A Yes.

5

Q And you don't dispute that finding in your
6 declaration, correct?

7

A I do not.

8

Q Come to page 47 of 97, please.

9

A Okay.

10

Q Actually, go up one page -- sorry -- to
11 page 45 of 97 just so you see the heading 8.6 at the
12 bottom.

13

A Got it.

14

Q It reads, "[REDACTED]

15

[REDACTED]."

16

Do you see that?

17

A I do.

18

Q If you come to the top of the next page,
19 do you see at the very top of that page
20 Dr. Halderman writes, "[REDACTED]

21

[REDACTED]

22

[REDACTED]

23

[REDACTED]

24

[REDACTED]

25

[REDACTED]

1 Do you see that?

2 A I do.

3 Q You don't dispute that finding in your
4 declaration, correct?

5 A I do not.

6 Q All right. Come down to the next section,
7 please, 8.7.

8 A Okay.

9 Q Here it reads, "[REDACTED]
10 [REDACTED]."

11 Are you with me?

12 A Yes.

13 Q Here Dr. Halderman writes, "[REDACTED]
14 [REDACTED]
15 [REDACTED]."

16 Do you see that?

17 A Yes.

18 Q You don't dispute that finding in your
19 declaration, correct?

20 A I do not.

21 Q Come to page 50 of 97, please.

22 A Okay.

23 Q Do you see at the top there's what looks
24 to be some computer code and then it says, "[REDACTED]
25 underneath?

1 A Yep.

2 Q And here Dr. Halderman writes, "[REDACTED]

3 [REDACTED],

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]. "

7 Do you see that?

8 A I do.

9 Q You do not dispute that finding in your
10 declaration, correct?

11 A I do not.

12 Q Then if you come down one paragraph, do
13 you see the heading that reads "[REDACTED]
14 [REDACTED]"?

15 A I do.

16 Q If you come down to the second paragraph
17 under that heading, do you see where it reads --
18 it's just two sentences -- two lines -- it reads,
19 "[REDACTED]"?

20 A I do.

21 Q In there Dr. Halderman writes, "[REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED] and he identifies two examples, one at the
25 county level, one at Dominion.

1 Do you see that?

2 A I do.

3 Q You don't dispute that finding in your
4 declaration, correct?

5 A I do not.

6 Q Come to the next -- top of the next page,
7 please.

8 A Okay.

9 Q Do you see section 9.2, "[REDACTED]
10 [REDACTED]"?

11 A I do.

12 Q Here Dr. Halderman writes, "[REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 Do you see that?

18 A I do.

19 Q You don't dispute that finding in your
20 declaration, correct?

21 A I do not.

22 Q Come down to the next section, please,
23 9.3.

24 A Okay.

25 Q It reads, "[REDACTED]

1

[REDACTED]

2

Do you see that?

3

A I do.

4

Q Here Dr. Halderman writes, "[REDACTED]

5

[REDACTED]

6

[REDACTED] [REDACTED]

7

[REDACTED]

8

[REDACTED]

9

[REDACTED]."

10

Do you see that?

11

A I do.

12

Q You do not dispute that finding in your

13

declaration, correct?

14

A I do not.

15

Q Come to page 54 of 97, please.

16

A I'm there.

17

Q Do you see the heading 9.6, "[REDACTED]

18

A I do.

19

Q Do you see the second paragraph that

20

begins, "[REDACTED]"?

21

A Yes.

22

Q Here Dr. Halderman writes, [REDACTED]

23

[REDACTED]

24

[REDACTED],

25

[REDACTED]

1 [REDACTED]. "

2 Do you see that?

3 A I see it.

4 Q You don't disagree with that statement in
5 your declaration, correct?

6 A I do not.

7 Q You see he goes on to explain --

8 Dr. Halderman does -- "[REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]. "

12 Do you see that?

13 A Yes.

14 Q Do you recall that vulnerability that was
15 discovered?

16 A I do not.

17 Q Dr. Halderman explains, "[REDACTED],

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Dr. Halderman concludes, "[REDACTED]

22 [REDACTED]. "

23 Do you see that?

24 A I see it.

25 Q And you don't dispute that finding in your

1 declaration that [REDACTED]

2 [REDACTED], right?

3 A I do not dispute it in my declaration, but
4 I do not agree with it.

5 Q And what's the basis for disagreeing with
6 that when you've not examined the security -- the
7 cybersecurity of the equipment at issue here?

8 A I don't need to examine it to make this
9 statement.

10 The DRE does not have a paper trail. If
11 there's a vulnerability on the BMD and voters verify
12 it, you can catch it. In other words, you can
13 prevent it. He can hack it and change it all he
14 wants. But if they are verifying it, he can't
15 change the outcome of the election. He can't
16 disenfranchise people. The DRE, you can change it
17 and it's impossible to know.

18 So Dr. Shamos is right in the context of
19 the DRE, but that doesn't apply to a BMD the same
20 way. It is not the same.

21 Q Voter verification does not prevent any of
22 the hacks that Dr. Halderman has identified from
23 occurring, right?

24 A Voter verification would not prevent the
25 hack from occurring. It would prevent the hack from

1 being successful.

2 Q When you say, "Voter verification will
3 prevent the hack from being successful," you mean if
4 a voter has the time and the ability to reliably
5 verify every selection on their ballot before it's
6 tabulated, correct?

7 A Yes.

8 Q Come to page 55 of 97, please.

9 A Okay.

10 Q Actually, we should be more precise.

11 When you say -- when you say, "Voter
12 verification will prevent the hack from changing a
13 vote or an election outcome," that's only if the
14 voter has the time and the ability to verify each of
15 the selections on their bullet, and they actually do
16 that for each selection, right?

17 A If they actually do it for each selection,
18 yes. It has to be a verification for those
19 selections. Yes.

20 Q All right. I'm sorry. Take a look at
21 page 55 of 97.

22 A Page 55, I'm there.

23 Q Sorry. I'm just thinking about the
24 question I just asked you.

25 There's also an additional step that's

1 needed to protect the voter, which is there also has
2 to be an audit, right? A reliable audit?

3 A It depends on the -- on the technology and
4 how it all fits together.

5 But we recommended for the NASEM report
6 that if you're going to have a scanner, then you
7 need to have an audit because the scanner could be
8 compromised.

9 Q All right. I'm sorry. Take a look at
10 page 55 of 97 now, heading 10.1.

11 A Got it.

12 Q Here you have the heading "[REDACTED]
13 [REDACTED]."

14 Do you see that?

15 A I do.

16 Q And Dr. Halderman writes, "[REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]."

20 Do you see that?

21 A Yes.

22 Q You don't dispute that finding in your
23 declaration, correct?

24 A I do not.

25 Q He then goes on in the same section, "[REDACTED]"

1 [REDACTED]

2 [REDACTED] ."

3 Do you see that?

4 A I do.

5 Q You don't dispute that finding in your
6 declaration, correct?

7 A I do not.

8 Q Come to the page 57 of 97, please.

9 A I'm there.

10 Q Do you see the heading 11.1, "[REDACTED]"

11 [REDACTED] "?

12 A Yes.

13 Q Here Dr. Halderman writes, [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] ."

17 Do you see that?

18 A I do.

19 Q You did not dispute that finding in your
20 declaration, correct?

21 A I did not.

22 Q Do you see the next heading, 11.2, on the
23 same page?

24 A I do.

25 Q Here it reads, "[REDACTED]"

1

[REDACTED]

2

[REDACTED]."

3

Do you see that?

4

A I see it.

5

Q Dr. Halderman writes, "[REDACTED]

6

[REDACTED]

7

[REDACTED]

8

Do you see that?

9

A I do.

10

Q You do not dispute that finding in your

11

declaration, correct?

12

A I do not.

13

Q Dr. Halderman goes on here to write, "[REDACTED]

14

[REDACTED]

15

[REDACTED]."

16

Do you see that?

17

A I do.

18

Q You do not dispute that finding in your

19

declaration, correct?

20

A I do not.

21

Q Come to the next page, please, Section

22

11.3.

23

A Okay.

24

Q The report itself is not 97 pages long, so

25

we're getting towards the end. I imagine this is

1 getting monotonous.

2 Take a look at Section 11.3. Do you see
3 where it reads, "[REDACTED]
4 [REDACTED]"?

5 A Yes.

6 Q Here Dr. Halderman writes, "[REDACTED]
7 [REDACTED],
8 [REDACTED]."

9 Do you see that?

10 A I do.

11 Q You do not dispute that finding in your
12 declaration, correct?

13 A I do not.

14 Q He then goes on in the same section to
15 write, "[REDACTED]
16 [REDACTED]
17 [REDACTED]"

18 Do you see that?

19 A I do.

20 Q You did not dispute that finding in your
21 declaration, correct?

22 A Did not.

23 Q Come to page 62 of 97, please. There's a
24 heading, "[REDACTED]"

25 A Got it.

1 system?

2 A I -- I don't know. You have to give me
3 details, and then I could tell you if I heard about
4 it. I've been involved in many cases and I read a
5 lot of this information. So to just ask me that
6 question, it's a tough one for me to say yes.

7 Again, I live in Florida, not Georgia. If
8 I was in Georgia, I'd probably be able to answer
9 that question easily.

10 Q Are you aware that in 2018, the state
11 represented, including under oath, that the DRE
12 system was air-gapped, and it came to light during
13 the course of a hearing, where their witnesses were
14 cross-examined, that, in fact, it was not
15 air-gapped, that there were connections to the
16 Internet or to devices that are connected to the
17 Internet?

18 Is that something you reviewed and
19 considered for your opinions in this case?

20 MR. MILLER: Objection.

21 THE WITNESS: I was not aware of that.

22 BY MR. CROSS:

23 Q Don't you think that that is relevant
24 information in determining whether you can rely on
25 documentation or representations from the state on

1 representations that you just presented as
2 unreliable in the past. I'll say it again. I was
3 not aware of them.

4 This is news, the first time I'm hearing
5 it, number one. The documents that were provided to
6 me, again, are cited in my declaration, and they,
7 from my interpretation, are official documents.

8 But if they are unofficial or if they're
9 false, that would be good information for me to be
10 aware of.

11 Q Are you aware that the Secretary of
12 State's office engaged a company called
13 Forless (phonetic) to do some cybersecurity
14 assessments on behalf of the state?

15 A That does not ring a bell. I don't -- I'm
16 not familiar with that company.

17 Q So in formulating your opinions in this
18 case, you haven't reviewed or considered any reports
19 by Forless that were prepared on behalf of the
20 Secretary of State's office; is that right?

21 A I don't think so. That doesn't ring a
22 bell. The name -- that name doesn't resonate with
23 me right now.

24 MR. CROSS: All right. Let's go off the
25 record.

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [x] was [] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name. Dated this 5th day of November, 2021.

21
22
23 Carla Soares

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25 CARLA SOARES

CSR No. 5908